

STATE PROPERTIES COMMITTEE MEETING

TUESDAY, MARCH 2, 2010

The meeting of the State Properties Committee was called to order at 10:10 a.m. by Chairman Kevin M. Flynn. Other members present were Robert Griffith representing the Rhode Island Department of Administration; Richard Woolley representing the Rhode Island Department of Attorney General; and Xaykham Khamsyvoravong representing the Rhode Island Office of the General Treasurer, Ex-officio Member. Others in attendance were Anthony Paolantonio from the Rhode Island House of Representatives; Lisa Primiano, John Faltus, Steven Wright and Robert Paquette from the Rhode Island Department of Environmental Management; Paul Carcieri, Annette Jacques and Bruce Cadden from the Rhode Island Department of Transportation; Christopher Cotta from the Rhode Island Department of Attorney General.

Chairman Flynn noted for the record that the State Properties Committee did have a “minimal” quorum present.

A motion was made to approve the meeting minutes from the meeting of

February 16, 2010, by Mr. Griffith and seconded by Mr. Woolley.

Passed Unanimously

Chairman Flynn stated that Items A and B are deferred to the next scheduled meeting of the State Properties Committee due to the lack of a sufficient quorum with the potential recusal of Mr. Woolley from the Department of Attorney General. Chairman Flynn also noted that

Item E1 is deferred to the next scheduled meeting of the State Properties Committee at the request of the Department of Transportation.

ITEM A – Department of Attorney General – A request for approval of and signatures on a Lease Agreement by and between the Central Parking Systems and the

Department of Attorney General for the use of seventy (70) parking spaces located at Tockwotton, South Main Street and South Water Streets in the City of Providence for employee parking. Item A is deferred to the next scheduled meeting of the State Properties Committee.

ITEM B – Department of Transportation – A request for approval of and signatures

on a License Agreement by and between the Department of Transportation and the Department of Attorney General for the use of 13,240 square feet of land located at Tockwotton and India Streets in the City of Providence for parking for thirty (30) employee vehicles. Item A is deferred to the next scheduled meeting of the State Properties Committee.

ITEM C – Department of Transportation – A request was made for approval of and signatures on a License Agreement by and between the Department of Transportation and Corliss Landing Condominium Association for use of 6,014 square feet of State-owned land located at the convergence of Point, South Water and South Main Streets in the City of Providence. Mr. Cadden stated that the subject property is

currently in use by the Corliss Landing Condominium Association (the "Association"). The Association owns land which abuts the subject property. Mr. Cadden indicated that the License Agreement is for a term of five (5) years with a monthly rental fee of \$400.00. Said rental fee will be reviewed at the expiration of the third (3rd) year. Chairman Flynn asked if the Department is requesting a renewal of an existing license agreement. Mr. Cadden explained that the Association previously entered into a License Agreement with the Department for use of this property with a rental rate of \$423.00 per month; however, it was over 9,000 square feet of property. The Department recently surveyed the property and learned that the actual use is 6,014 square feet of property. Therefore, Mr. Cadden did not categorize this request as a renewal, as it is actually a new License Agreement between the parties. Mr. Cadden noted that the Association has had a license agreement involving this property since 1997. A motion to approve was made by Mr. Woolley and seconded by Mr. Griffith.

Passed Unanimously

ITEM D – Department of Environmental Management – A request was made for approval of and signatures on a Conservation Easement over 95.54 acres of land located along William Reynolds Road in the Town of Exeter; referred to as a portion of the former Ladd Property. Ms. Primiano presented a map of the subject property for the Committee's review. The property abuts other protected land owned by the Nature Conservancy and the Audubon Society. Ms. Primiano explained that in 1998, Governor Almond

agreed to work with the Department and other conservation agencies to execute an easement over the subject property. After many years and personnel changes, the Department has finally completed an acceptable document. The Conservation Easement Agreement (the "Easement") primarily protects the wetlands on the property and specifically addresses the need to protect the water quality, which is very important to Quonset Point Development Corporation, the Town of Exeter as well as the State of Rhode Island. Ms. Primiano stated that development has been proposed for this site and a series of discussions and plans concerning the Fire Training Academy have taken place. Therefore, the Department made the acquisition of this Easement a priority to ensure that the wetlands and the water quality are protected. A motion to approve was made by Mr. Woolley and seconded by Mr. Griffith.

Passed Unanimously

ITEM E – Department of Environmental Management – A request was made for approval of and signatures on a License Agreement by and between the Department of Environmental Management and Mr. George Wein/New Festival Productions, LLC for the presentation of the Folk and Jazz Festivals at Fort Adams State Park in the City of Newport. Mr. Faltus stated that last year the State Properties Committee approved a one (1) year License Agreement with Mr. George Wein for continued presentation of the Folk and Jazz Festivals as it was the 50th Anniversary of the Folk Festival and the 55th Anniversary of the Jazz Festival. Mr. Faltus explained that in 2008, the Department terminated the License Agreement, which had

been negotiated with Festival Network due to their refusal to meet their obligations under the License Agreement. After this year's festivals, Mr. Wein approached the Department and expressed an interest in continuing the legacy of the festivals at Fort Adams State Park and asked if the Department would enter into a new three (3) year License Agreement, which is before the Committee this morning.

Mr. Faltus stated that the Department understands the importance and legacy of these festivals as well as the quality of the productions Mr. Wein presents. Mr. Faltus stated that the Department negotiated a new License Agreement with some modifications to Article 40 concerning the fee. The fee is now a flat rate fee with a percentage of sponsorship. The Department believes this is an equitable Agreement, which protects the interests of the State of Rhode Island and Mr. Wein. Mr. Faltus respectfully requested the Committee's approval and execution of the new three (3) year License Agreement. Chairman Flynn clarified that the only time there has ever been problems associated with the festivals is when Festival Network took over the presentation of the festivals in 2008. Mr. Faltus stated that is correct and explained that the License Agreement was barely in the second year of the five year agreement at the time the Department terminated the same. Mr. Faltus believes that Festival Network greatly over extended itself in 2008, with the booking of James Taylor. Festival Network experienced some serious financial difficulties and the Department advised them that it would pursue legal action unless they fulfilled their obligation to the State of Rhode Island. Festival Network did in fact settle with the State, but the Department

determined it would be prudent to terminate the License Agreement. Mr. Faltus noted that Mr. Wein did not want these festivals, which he has spent a life time building up, to end on that note so he approached the Department requesting a new license agreement be negotiated to allow the presentation of the festivals to continue on the strength of his reputation. Mr. Faltus stated that because of Mr. Wein's exemplary track record, the Department agreed to negotiate a new contract. Mr. Woolley asked if the Department has heard from Festival Network. Mr. Faltus stated that to his knowledge, the Department has received no further communications from Festival Network nor has it received any legal correspondence since 2008. A motion to approve was made by Mr. Griffith and seconded by Mr. Woolley.

Passed Unanimously

ITEM F – Department of Environmental Management – A request was made to review and discuss the results of the Request for Proposals for a five (5) year Concession Contract for the operation, management and collection of parking fees at State operated beaches and for authorization to award said contract. Mr. Faltus began by thanking the State Properties Committee for its patience during this process and commended the Division of Purchases for its efforts in bringing this Concession Contract to fruition. Mr. Faltus explained that at a special meeting held on December 28, 2009, the State Properties Committee granted the Department's request for permission to work with the Division of Purchases to issue a Request for Proposals (the "RFP") to solicit bids for a five (5) year Concession Contract for the

operation, management and collection of parking fees at State operated beaches. Mr. Faltus stated that the Department received a total of five (5) responses to said RFP. Mr. Faltus indicated that an in-house committee was established to conduct an extensive review of the five (5) proposals that were submitted as well as a scoring system to determine the successful candidate. Subsequent to said evaluation, two (2) of the respondents were chosen as finalists. The finalists were further interviewed and evaluated by the review committee. Mr. Faltus indicated that based upon said interviews and evaluations, the Department submitted its recommendation to the Division of Purchases. The Division of Purchases advised the Department that it should reissue a modified RFP requesting a final and best offer from all five (5) vendors. Mr. Wright explained the one of the two finalists wanted to eliminate the insurance requirement for gatekeeper's insurance, which would allow successful vendor to provide valet parking at the beaches. One of the finalists did not wish to offer said service and therefore, did not wish to pay for the additional insurance requirement. The Division of Purchases did in fact eliminate the gatekeeper's insurance requirement and requested that all five (5) of the original respondents submit a best and final offer. Mr. Wright apologized for inundating the Committee with the information regarding the best and final offers at such a late time; however, said information did not become available until yesterday, Monday March 1, 2010. Mr. Wright stated that the portion of the handout highlighted in red represents the results of the best and final offers received from

the Division of Purchases at 12:00 p.m. yesterday. Mr. Wright indicated that the committee conducted its evaluation of said results and again submitted a recommendation to the Division of Purchases, which is prepared to forward a tentative letter of award to Pro Park, Inc. subject to the State Properties Committee's approval of the same.

Chairman Flynn asked Mr. Wright to explain the best and final offer process through the Division of Purchases. Chairman Flynn noted that the final scores were very close. Mr. Wright agreed that the scores were very close and stated that originally the two finalists were In Town and Pro Park, Inc. The review committee felt that Pro Park was much more prepared and better organized for the upcoming beach season than In Town; however, the Department could not dispute the financial commitment from In Town. Mr. Wright explained that because of the concerns regarding the gatekeeper's liability insurance requirement, the Division of Purchases felt it would be prudent to request a best and final offer after the elimination of said requirement. Mr. Wright stated that if, in the future, the successful vendor wishes to offer such a service with the approval of the Department, the vendor can secure the required insurance coverage at that time. Mr. Wright indicated that valet service was left as a possible arrangement in the future, but indicated that Department has concerns and is not convinced that such an arrangement would be in its best interest. However, the gatekeeper's liability insurance requirement was eliminated from the RFP. Based upon the modified criterion, the five (5) original vendors had an opportunity to submit a best and final offer. Mr. Wright stated that In Town actually

decreased its guaranteed minimum bid and Pro Park increased its guaranteed minimum bid slightly; creating a \$5,000± difference between the two proposals. Mr. Wright explained that after receiving the results from the Division of Purchases and in view of the Department's favorable impression of Pro Park, the Department submitted a recommendation identifying Pro Park as the successful candidate. Chairman Flynn asked which of the companies was in favor of providing valet service. Mr. Wright indicated that it was Pro Park that was in favor of valet service; however, valet service was eliminated from the RFP as a specification. Chairman Flynn asked if any of the five (5) respondents were aware of the initial evaluation scores. Mr. Wright indicated that none of the respondents were aware of the initial scores. Chairman Flynn wondered why In Town would have lowered its guaranteed minimum bid. Mr. Paquette indicated that he has no idea why In Town lowered its guaranteed minimum bid and indicated that the review committee was equally confused by that decision. Mr. Paquette noted that the other four (4) respondents all increased their bids; In Town was the only respondent that lowered its bid. However, Mr. Paquette noted that In Town was actually considering withdrawing its proposal if the gatekeeper's liability insurance requirement was not eliminated from the RFP. Mr. Wright stated that the Department requested permission, through the Division of Purchases, to further interview and evaluate the two companies, which it deemed the most qualified. Mr. Woolley asked what the Department's experience was with Pro Park when they operated the Dutch Inn's parking lot. Mr. Wright

indicated that the Division of Parks and Recreation does not manage the Dutch Inn's parking lot. Mr. Woolley then asked if the Division of Parks and Recreation has made an inquiry to whatever division does manage said parking lot regarding its experience with Pro Park. Mr. Paquette indicated that he was not aware of such an inquiry. Mr. Woolley noted that at one time Pro Park operated the Dutch Inn's parking lot; however, it is now operated by In Town. Mr. Woolley wondered why one vendor was substituted for the other. For the benefit of the Committee, Chairman Flynn asked Mr. Wright to explain what transpired between the Division of Purchases and the Department regarding the selection of the successful vendor. Mr. Wright explained that on Friday, February 26, 2010, the Division of Purchases contacted all five vendors and requested that they submit a best and final offer to the Division of Purchases on or before March 1, 2010, at 12:00 p.m. The Division of Purchases then forwarded said proposals back to the Department and the review committee, once again, evaluated said proposals and the documentation provided to the State Properties Committee today is the result of those evaluations. Chairman Flynn noted that in reviewing the documents, it appears that when the amount of revenue currently realized by the State from the beach parking lot operation is compared to the vendor's guaranteed minimum bids there is not a radical difference. Chairman Flynn asked Mr. Wright to explain why the Department feels it is in its best interest to delegate operation and management of the beach parking lots to an outside vendor at this time. Mr. Wright indicated that the Department has carefully considered that very

question. Mr. Wright explained that the Department has historically preferred to be in control of the operation of its facilities; however, over the years, the Department has been concerned about a number of issues, which have arisen regarding the operation of beach parking lots. Mr. Wright indicated that the primary issue involves the handling of money. The Department very rarely, if ever, divulges the amount of revenue it procures. In fact, the amount of revenue received was not included in the RFP; it was not disclosed until the mandatory pre-bid. Chairman Flynn asked Mr. Wright to clarify what he means by "the handling of money." Chairman Flynn asked if he was referring to the inherent temptations involved in the handling of actual cash. Mr. Wright stated that is correct and explained the Department employs seasonal help to collect the parking lot fees and unfortunately, the misappropriation of cash by staff is a constant concern. Depending upon the degree of technology and quality of anti-theft equipment, the cost can be substantial. Mr. Wright indicated that five (5) years ago the Department invested \$545,000 for this equipment and needs to purchase updated equipment at this time. Mr. Wright stated that the depositing of money at the end of each business day is a major concern. Mr. Wright explained that at any given location, up to \$20,000 dollars in parking fees can be collected in a single day and either the seasonal beach manager or seasonal park rangers are responsible for depositing the money in local banks. This has always caused that Department a great deal of concern, but funds to hire an outside agency to deposit the money were never available. Mr. Wright noted that due to the significant

decrease in staff, the Department is losing the ability to manage these types of large endeavors. Mr. Faltus stated that as the state beaches are seasonal in nature, they are one hundred (100%) percent staffed by seasonal employees. Over the years, the Department has been fortunate to find responsible individuals to fill these seasonal positions, particularly the seasonal beach managers. This position involves a great deal of responsibility and takes up a lot of time. The beaches are supervised by only one, perhaps two full-time supervisors, which have multiple responsibilities. Mr. Faltus indicated that due to the cut back in full time supervisors, it is becoming increasingly more difficult and costly to provide the level of supervision necessary to ensure the operation and collection of a rather large amount of revenue. Mr. Woolley asked what will become of the \$545,000 worth of equipment previously purchased by the Department. Mr. Wright indicated that the Department will surplus the equipment in the event this proposal is approved. Chairman Flynn stated that he remembered someone saying that the Department will be required to purchase new equipment at substantial cost to the Department if this proposal were not approved. Mr. Wright stated that is correct. The Department will be required to replace the loops in the roads and entranceways as well as purchase new upgraded equipment such as camera or handheld devices to facilitate expedited admission to the beaches. The Department has also seriously considered credit card use, which will require the purchase of additional equipment.

Mr. Wright stated that in either event, time is of the essence; either

the Department has to purchase and install the new equipment or the vendor needs to provide its submittals, acquire the equipment and hire and train staff. A motion was made to approve by Mr. Griffith and seconded by Mr. Woolley.

Passed Unanimously

ITEM E1 – Department of Transportation – A request for approval of and signatures on a Temporary Easement Agreement by and between the Providence & Worcester Railroad and the Department of Transportation for an easement over 23,809 square feet of land located from Warren Avenue to Dexter Road in the City of East Providence for the construction of Waterfront Drive. Item E1 is deferred to the next scheduled meeting of the State Properties Committee at the request of the Department of Transportation.

There being no further business to come before the State Properties Committee, the meeting was adjourned at 10:46 a.m. A motion was made to adjourn by Mr. Griffith and seconded by Mr. Woolley

Passed Unanimously

Holly H. Rhodes, Executive Secretary